

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)	
)	
Request for Licensing Freezes and Petition for)	
Rulemaking to Amend the Commission's DTV)	RM-11626
Table of Allocations to Prohibit the Future)	
Licensing of Channel 51 Broadcast Stations and)	
To Promote Voluntary Agreements to Relocate)	
Broadcast Stations from Channel 51)	

To: The Commission (electronically filed via ECFS)

OPPOSITION TO PETITION FOR RULEMAKING

1. R & F Broadcasting, Inc. ("R&F"), by its counsel, hereby opposes the above-captioned Petition for Rulemaking and Licensing Freezes ("Petition").¹ R&F is the licensee of WRFB, a full power digital television station in Carolina, Puerto Rico that operates on Channel 51. R&F also holds a post-transition maximization construction permit to improve the WRFB(DT) facilities (File No. BPCDT-20081118AEZ). Because the rulemaking proposal would constrain WRFB's current licensed operations and would eliminate any future opportunity to further improve and maximize service to the public, the Commission should deny the Petition. In the alternative, should the Commission determine that foreclosure of additional television service on Channel 51 is in the public interest, the Commission must permit existing Channel 51 permittees to build authorized facilities and allow existing licensees to continue to improve facilities.

¹ A comment deadline of April 27, 2011, was established by Public Notice, *Media Bureau Seeks Comment on a Petition for Rulemaking and Request for Licensing Freezes*, DA 11-562, released March 28, 2011.

Failing these actions, the Commission must compel the reimbursement of all costs to relocate broadcasters from Channel 51 to comparable channels and facilities.

2. Either the Petitioners have buyer's remorse or they are attempting to do an end-around on Congress's debate over incentive auctions. But the Commission should not be fooled by the cloaking of a rulemaking in rhetoric proclaiming a dire need for interference protection for as-yet-unbuilt wireless broadband services. There is no substance to Petitioner's over the top claims of wireless opportunities being foreclosed by *potential* interference from television broadcasters operating on Channel 51, and it is disingenuous at best for the Petitioners to claim this is nothing more than a blatant spectrum grab.

3. Section 27.60 of the Commission's Rules explicitly requires Lower A Block licensees operating in the 698-704 MHz band (formerly TV Channel 52) to protect television broadcasting operations in the 692-698 MHz band (TV Channel 51). The licensees of Lower A Block spectrum bought their licenses at auction with full knowledge of these interference constraints.² Presumably, if the auction worked as it was designed, the prices paid for Lower A Block licenses reflected any constraint that mandatory Channel 51 interference protection would entail. To allow Petitioners to now be released from this constraint is akin to granting a tremendous windfall, unjustly enriching a few licensees at the expense of the U.S. taxpayer (the beneficiary of the original auction proceeds) and the broadcasters who made digital transition plans with the

² "We will accord the same level of adjacent channel protection to both incumbent and future analog and digital broadcast facilities on channel 51. Thus, wireless and other operators on channel 52 must provide the interference protection prescribed in the Lower 700 MHz Report and Order to all broadcasters on channel 51, including any that may commence operation after the auction of the adjacent channels in the 52-58 band....Channel 51 is part of the core channels reserved for broadcast use, and we do not believe use of channel 51 for broadcast purposes should be restricted in order to protect operations on channel 52, even if those operations predate the commencement of operations on channel 51." *Second Periodic Review of the Commission's Rules and Policies Affecting the Conversion to Digital Television*, 18 FCC Rcd. 1279 (2003) at ¶124.

assurance of ongoing interference protection. Television broadcasters should be permitted to continue to make use of spectrum that would otherwise lie fallow until actual – and unavoidable – interference is demonstrated.

4. The WRFB(DT) signal covers more than 2 million people in Puerto Rico and will, upon completion of the maximized facilities, increase service to more than half a million more people. The majority of WRFB's service area is mountainous and rural; most of the station's audience receive the signal over the air. The proposal to constrain broadcast on Channel 51 would, at the very least, diminish R&F's ability to improve service to the communities of eastern Puerto Rico. At worst, Petitioners seek the elimination of service to more than 2 million people. Certainly this would not be in the public interest.

5. In light of the forgoing, R&F respectfully requests the Commission deny the Petition or, in the alternative, that the Commission permit continued existing operations and authorized improvements.

Respectfully submitted,



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April 27, 2011

CERTIFICATE OF SERVICE

I, Michelle Brown-Johnson, do hereby certify that I have, this 27th day of April, 2011, caused copies of the foregoing "Opposition to Petition for Rulemaking" to be sent by first class United States mail, postage prepaid, to the following:

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